

## Minutes Formal City Council Meeting June 2, 2005

Minutes of the Formal Council Meeting of Thursday, June 2, held at 7:30 p.m. in the Harry E. Mitchell Government Center, Municipal Building, City Council Chambers, 31 E. Fifth Street, Tempe, Arizona.

### **COUNCIL PRESENT:**

Mayor Hugh Hallman  
Vice Mayor Mark W. Mitchell  
Councilmember P Ben Arredondo  
Councilmember Barbara J. Carter  
Councilmember Leonard Copple  
Councilmember Pamela L. Goronkin  
Councilmember Hut Hutson

*Mayor Hallman called the meeting to order at 7:40 p.m.*

1. Councilmember Copple gave the invocation.
2. Mayor Hallman led the audience in the **Pledge of Allegiance**.
3. **MINUTES**

#### **A. Approval of Council Meeting Minutes**

Motion by Councilmember Hutson to approve the following **COUNCIL MEETING MINUTES**. Second by Councilmember Goronkin. Motion passed unanimously on a voice vote.

1. Council's Ad-Hoc Long-Range Budget & Finance Planning Committee – April 5 & May 10, 2005 [20050602lr01.pdf](#) [20050602lr02.pdf](#)
2. Council's Community Services Committee – January 19 & April 20, 2005 [20050602csvcs01.pdf](#) [20050602csvcs02.pdf](#)
3. Council's Technology Advancement, Tourism & Redevelopment Committee – October 11, 2004; January 10 & 24, February 14 & 28, April 11 & 25, May 9 & 23, 2005 [20050602TATR09.pdf](#) [20050602TATR01.pdf](#) [20050602TATR02.pdf](#) [20050602TATR03.pdf](#) [20050602TATR04.pdf](#) [20050602TATR05.pdf](#) [20050602TATR06.pdf](#) [20050602TATR07.pdf](#) [20050602TATR08.pdf](#)

#### **B. Acceptance of Board & Commission Meeting Minutes**

Motion by Councilmember Hutson to accept the following **COMMITTEE & BOARD MEETING MINUTES**. Second by Councilmember Carter. Motion passed unanimously on a voice vote.

4. Committee for Youth, Families and Community – April 18, 2005 [20050602yfcc01.pdf](#)

5. Community Special Events Task Force – May 24, 2005 [20050602setf01.pdf](#)
6. Enhanced Services Commission – April 20, 2005 [20050602esc01.pdf](#)
7. Hearing Officer – April 19 & May 3, 2005 [20050602ho01.pdf](#) [20050602ho02.pdf](#)
8. Historic Preservation Commission – April 7, 2005 [20050602hpc01.pdf](#)
9. Human Relations Commission – April 19, 2005 [20050602hrc01.pdf](#)
10. Parks & Recreation Board – April 12, 2005 [20050602csmr01.pdf](#)
11. Planning & Zoning Commission – January 25, February 22, March 8 & 22, April 12, 2005 [20050602pz02.pdf](#) [20050602pz03.pdf](#) [20050602pz04.pdf](#) [20050602pz05.pdf](#) [20050602pz06.pdf](#)
12. Rio Salado Advisory Commission – April 26, 2005 [20050602rsac01.pdf](#)
13. Tempe Sports Authority – April 19, 2005 [20050602tsa01.pdf](#)

#### 4. REPORTS AND ANNOUNCEMENTS

##### A. Mayor's Announcements

- Board and Commission vacancies were announced by Mayor Hallman. Applications are due in the City Clerk's Office by June 9<sup>th</sup>. Mayor Hallman also invited residents to participate on the new Rental Housing Task Force. Applications will be accepted by the City Clerk's Office through the end of July.
- Mayor Hallman announced changes in the bus schedule for the July 4<sup>th</sup> event. Free bus service will be provided.
- Mayor Hallman announced that the City of Tempe would like to formally thank Congressman Ed Pastor for his work on securing \$12M in federal funding to restore the Salt Riverbed in both Phoenix and Tempe areas. The Rio Salado project will benefit from this improvement on the west end of Town Lake.

##### B. Manager's Announcements – None.

#### 5. AGENDA

All items in these minutes identified with an asterisk (\*) are **public hearing items**. All items listed on the agenda are approved with one council action. Items scheduled for Introduction/First Public Hearing will be heard but not adopted at this meeting. Items scheduled for Second Public Hearing/Final Adoption will be voted upon at this meeting.

Mayor Hallman announced consideration of the **AGENDA**.

**Motion by Councilmember Goronkin to approve the Agenda as amended (Items #20, 21, 30, 34, 35, 36, 37, 38 & 42 were removed for separate consideration). Second by Councilmember Arredondo. Motion passed on a roll call vote, 7-0.**

##### A. Miscellaneous Items

14. Approved the Report of Claims Paid to be Filed for Audit for the weeks of May 8 & May 15, 2005.

**COMMENTS:** A copy of the detailed claims report may be obtained by contacting the City Clerk's Office.

15. Approved the transfer of surplus property to the City of San Luis, Arizona.  
**COMMENTS:** The property consists of light poles and fixtures, previously removed from the Benedict Sports Complex and no longer needed by the City of Tempe.  
**DOCUMENT NAME:** [20050602csmr02.pdf](#) PARKS ADMINISTRATION (0706-01)
16. Approved Contracts #2000-142E, #2000-143E, and #2000-144E, one-year renewals of the public defender contracts.  
**COMMENTS:** For representation of indigent defendants in the Tempe Municipal Court.  
**DOCUMENT NAME:** [20050602ctfv01.pdf](#) COURT ADMINISTRATION (0501-02)
- \*17. **CONTINUED** to June 16, 2005, the public hearing for a Series 6 Bar liquor license for the Loft, 420 S. Mill Avenue, Suite 101.  
**COMMENTS:** Michael Dove, Agent  
**DOCUMENT NAME:** [20050602LIQ1.pdf](#) LIQ LIC (0210-02)
- \*18. Held a public hearing and approved a Series 7 Beer and Wine Bar liquor license for Paymah Investments, LLC, dba Frankie's New York Pizza, 1420 N. Scottsdale Road.  
**COMMENTS:** Mahan Seifi, Agent  
**DOCUMENT NAME:** [20050602LIQ2.pdf](#) LIQ LIC (0210-02)
- \*19. Held a public hearing and approved a Series 6 Bar liquor license for Premier Bar Consulting, LLC, dba Arizona Beach Club, 430 N. Scottsdale Road.  
**COMMENTS:** Randy Feldman, Agent  
**DOCUMENT NAME:** [20050602LIQ3.pdf](#) LIQ LIC (0210-02)
- \*20. ***THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION.***  
Held a public hearing and approved a Series 6 Bar liquor license for Red Owl LLC, dba Red Owl, 2155 E. University Drive, #116.  
**COMMENTS:** Peter Schelstraete, Agent

Mayor Hallman declared a conflict of interest and Vice Mayor Mitchell conducted the meeting for Item #20.

PUBLIC HEARING - No one came forward to speak.

Motion by Councilmember Arredondo for approval of Item #20. Second by Councilmember Hutson.  
Motion passed on a roll call vote, 6-0, with Mayor Hallman abstaining.

**DOCUMENT NAME:** [20050602LIQ4.pdf](#) LIQ LIC (0210-02)

B. Award of Bids/Contracts

21. **THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION.**

Awarded **Contract #2005-123**, a Construction Manager at Risk Construction Services contract to Okland Construction Company, Inc. and to approve a \$167,000 contingency allowance for change orders; awarded **Contract #2005-124**, a professional services contract to MBA Corp.; approved **Contract #2001-207G**, an addendum to a professional services contract with Michael Wilson Kelly Architects for the North Tempe Multi-Generational Center.

**COMMENTS:** Subject to execution of the final written contract with Okland Construction Company, Inc., for a Guaranteed Maximum Price of \$5,698,615; to execution of the final written contract with MBA Corp. in an amount not to exceed \$98,000; and to execution of the final written contract and addendum with Michael Wilson Kelly Architects in an amount not to exceed \$29,861.

Councilmember Copple asked that this item be removed for separate consideration so that the Mayor could explain to the public the significance of this project.

Mayor Hallman explained that this item approves a construction contract for the North Tempe Multigenerational Center. Council, staff and the neighborhoods have been working for four years for the opportunity to forge a new partnership with the Tempe Elementary School District for the construction of the North Tempe Multigenerational Center at Laird School on property owned by Tempe Elementary School District. This is a great opportunity to provide the kinds of services being provided to the central part of our community at the Westside Multigenerational Center and the Escalante Center, as well as through Kiwanis Park and the Recreational Center in south Tempe.

**Motion by Councilmember Copple for approval of Item #21. Second by Councilmember Arredondo. Motion passed on a roll-call vote, 7-0.**

**DOCUMENT NAME:** [20050602PWTG01.pdf](#) **COMMUNITY SERVICES ADMINISTRATION (0701-01) PROJECT NO. 6300291**

22. Awarded **Contract #2005-125**, a Construction Manager at Risk Design Phase Services contract, to Adolfson & Peterson Construction for the Transportation Center and the Fifth Street and Farmer Avenue Parking Lot.

**COMMENTS:** Subject to execution of the final written contract in an amount not to exceed \$148,905.

**DOCUMENT NAME:** [20050602PWTG02.pdf](#) **TRANSPORTATION PLANNING (1101-01) PROJECT NO. 60-976762**

23. Awarded **Contract #2005-126**, a Construction Manager at Risk Design Phase services contract, to Achen-Gardner Engineering, LLC, for the McAllister/University Water and Sewer Facility Improvements.

**COMMENTS:** Subject to execution of the final written contract for an amount not to exceed \$116,203.

**DOCUMENT NAME:** [20050602PWTG03.pdf](#) **WASTEWATER MANAGEMENT ADMIN.(0812-01) PROJECT NO. 3201671**

24. Approved a one-year contract renewal with Christmas Light Decorators for holiday light displays.

**COMMENTS:** Total amount not to exceed \$100,000.

**DOCUMENT NAME:** [20050602fslg01.pdf](#) **PURCHASES (1004-01) T01-088-01**

25. Approved a one-year contract renewal with Fluoresco Lighting and Signs for sign faces, cabinets and labor.

**COMMENTS:** Total amount not to exceed \$100,000.

**DOCUMENT NAME:** [20050602fslg02.pdf](#) **PURCHASES (1004-01) T04-099-01**

26. Approved the use of a one-year City of Chandler contract with two (2) one-year renewal options with Heinfeld, Meech & Co., P.C., for professional auditing services.

**COMMENTS:** Total cost of this contract shall not exceed \$71,850 during the initial contract period.

**DOCUMENT NAME:** [20050602fslg03.pdf](#) **PURCHASES (1004-01) #AC3-0893-2012**

27. DELETED

28. DELETED

- C. Ordinances and Items for Introduction/First Hearing - These items will have two public hearings before final Council action.

- \*29. Introduced and held the **first public hearing** for an ordinance authorizing the Mayor to execute Addendum No. 1 to the Lease Agreement between the City of Tempe and the Arizona Board of Regents (Arizona State University) for the use of Mitchell School. **Set the second public hearing for June 16, 2005.**

**DOCUMENT NAME:** [20050602cacc05.pdf](#) **MITCHELL SCHOOL (0903-13)**  
**ORDINANCE NO. 2005.34**

- D. Ordinances and Items for Second Hearing/Final Adoption

- \*30. **THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION.**

Held the **second public hearing** and **denied** a request for an ordinance authorizing the Mayor to execute a Grant Participant Agreement with, and convey a preservation and conservation easement to, Arizona State Parks for a Heritage Fund grant for the Eisendrath House Stabilization.

**COMMENTS:** Grant amount is \$35,000.

Mayor Hallman explained that this particular grant has come with so many strings attached that it would be difficult to accomplish it for the amount of money applied. It would put so many difficult hurdles in getting a final resolution to the preservation and restoration of the Eisendrath House.

Councilmember Copple asked the City Attorney how to proceed if Council wanted to vote against Item #30.

Deputy City Attorney Cliff Mattice stated that a motion to approve would work, then Council could vote against it, if they so chose.

PUBLIC HEARING - No one came forward to speak.

**Motion by Councilmember Copple to approve Item #30. Second by Councilmember Carter. Motion failed on a roll call vote, 0-7.**

Councilmember Arredondo stated that there are two Tempe firms that would like to meet with staff to present an idea for stabilization of the Eisendrath House. They believe this can be done in a different way and a lot cheaper, and as residents of Tempe, they would like to have the opportunity to at least make a presentation.

**DOCUMENT NAME: [20050602cacc01.pdf](#) HISTORICAL ADV BD BLDG  
PRESERVATION RECOMMENDATION (0112-02-03) ORDINANCE NO. 2005.25**

- \*31. Held the **second public hearing** and approved ORDINANCE NO. 2005.32 amending Chapter 16A, Article IV of the Tempe City Code relating to After-Hours Establishments.  
**DOCUMENT NAME: [20050602cacc02.pdf](#) TCC CH 16 – LICENSES, TAXATION & MISC BUS REGS, ETC. (0503-16)**
- \*32. Held the **second public hearing** and approved ORDINANCE NO. 2005.29 authorizing the Mayor to enter into **Contract #2000-259B**, Addendum No. 3 to the Lease Agreement with Childsplay, Inc. for the use of the Tempe Performing Arts Center.  
**DOCUMENT NAME: [20050602cacc03.pdf](#) MUNICIPAL COMPLEX (TLT/CHILDSPLAY) (0902-23)**
- \*33. Held the **second public hearing** and approved ORDINANCE NO. 2005.28 authorizing the Mayor to enter into **Contract #2000-260A**, Addendum No. 2 to the Lease Agreement with Tempe Little Theatre for the use of the Tempe Performing Arts Center.  
**DOCUMENT NAME: [20050602cacc04.pdf](#) MUNICIPAL COMPLEX (TLT/CHILDSPLAY) (0902-23)**
- \*34. ***THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION.***  
Held the **second public hearing** and **approved with conditions** ORDINANCE NO. 2005.08 authorizing a Zoning Map Amendment for COSMO, 234 West University Drive.

**COMMENTS:** (Matt Gismondi, Gentle Strength Cooperative, Inc., property owner) (RRC05004) for a sixteen story building with approximately 488,000 s.f. of building on 1.77 acres, including the following:

**#ZON-2005.05 Ordinance No. 2005.08** for a Zoning Map Amendment from GID, General Industrial District (formerly I-2, General Industrial) to CC, City Center District on 1.77 acres.

The following conditions were approved:

1. a. The Public Works Department shall approve all roadway, alley, and utility easement dedications, driveways, storm water retention, and street drainage plans, water and sewer construction drawings, refuse pickup, and off-site improvements.
- b. Off-site improvements to bring roadways to current standards include:
  - (1) Water lines and fire hydrants
  - (2) Sewer lines
  - (3) Storm drains
  - (4) Roadway improvements including streetlights, curb, gutter, bikepath, sidewalk, bus shelter, and related amenities.
- c. Fees to be paid with the development of this project include:
  - (1) Water and sewer development fees,
  - (2) Water and/or sewer participation charges,
  - (3) Inspection and testing fees.
- d. All applicable off-site plans shall be approved prior to recordation of Final Subdivision Plat.
- e. All street dedications shall be made within six (6) months of Council approval.
- f. Public improvements must be installed prior to the issuance of any occupancy permits. Any phasing shall be approved by the Public Works Department.
- g. All new and existing, as well as on-site and off-site, utility lines (other than transmission lines) shall be placed underground prior to the issuance of an occupancy permit for this (re)development in accordance with the Code of the City of Tempe – Section 25.120.
2. The owner(s) shall provide a continuing care condition, covenant and restriction for all of the project's landscaping, required by Ordinance or located in any common area on site. The CC&Rs shall be in a form satisfactory to the Development Services Director and City Attorney.
3. A building permit shall be obtained and substantial construction commenced **on or before June 2, 2007**, or the zoning shall revert to that in place at the time of application, subject to a public hearing.
4. The Planned Area Development for Cosmo shall be put into proper engineered format with appropriate signature blanks and kept on file with the City of Tempe's Development Services Department prior to issuance of building permits.
5. A Subdivision Plat and Horizontal Regime (Condominium Map) is required for this site and shall be recorded prior to issuance of permits.
6. The Final Subdivision Plat and Horizontal Regime (Condominium Map) shall be put into proper engineering format with appropriate signature blanks and recorded with the Maricopa County Recorder's Office through the City of Tempe's Development Services Department **on or before June 2, 2006**. Failure to record the plan within one year of Council approval shall make the plan null and void.
7. All final details of the project (i.e. building elevations, floor plans, landscape plan, etc.) shall be reviewed and approved and processed simultaneously with the Final Planned Area Development Overlay to the appropriate decision-making bodies prior to processing permits.
8. The applicant shall provide a sun angle study pursuant to the General Plan 2030 for tall buildings, when a Final Planned Area Development Overlay is processed.

9. The applicant shall provide a project model when a Final Planned Area Development Overlay is processed.
10. The applicant shall provide a complete traffic impact study when a Final Planned Area Development Overlay is processed.
11. The Preliminary Planned Area Development Overlay shall have a maximum building height of two hundred seven (207) feet, based on applicant's presentation.
12. Applicant shall include a full service grocery store in the Final PAD submittal. Details of the grocery store shall include a statement from the grocer indicating the services provided on-site by the store and the duration of the store's lease.
13. Prior to the passage of the Final PAD, Applicant and the City will negotiate a mutually acceptable Development and Disposition Agreement, the funds from which will be used to address traffic-calming, historic preservation, neighborhood preservation, and affordable housing issues in the neighborhoods impacted by the project.
14. The project is conditioned on adding the parcel immediately north of the project, informally called the "Chase High Profile Parking Lot."

Mayor Hallman announced that a combined public hearing would be held for Items #34 and #35, but that the items would be voted upon separately.

#### APPLICANT PRESENTATION:

**Charles Huellmantel**, Applicant's Representative, stated that they received a lot of public comment after the original building design was presented to Council. A number of changes were made to the design, and at this time, we have received support from the DTC and the Gilliland Neighborhood Association.

This is an entirely different building and a much better project. The residential portion is stepped back from the street to provide more of a pedestrian-scale edge along University. There are two floors of underground parking. The street level contains a retail experience, the second floor contains some parking and mechanical equipment for the grocery store, as well as restaurant space. Floors three, four and five contain parking, and floors six through sixteen contain condo space. Substantial pedestrian experiences have been added. The roof of floor one and the floor of two contains a restaurant, with both interior space and pedestrian space. A shaded edge has been created along Ash with more retail experience and more in-line retail further along Ash. More shade and trees have been added along the pedestrian walkway. The health club has been removed.

In the final submittal, we intend to have the grocer indicate what their services will be. This preliminary plan is necessary to attract a grocer. A traffic study was performed and many helpful things were learned. Although we were asked to conduct the study, the applicant had already spent a great deal of time preparing for a study. The bulk of the traffic, 70% to 80%, will be from the grocery store and the condos will bring a very small part of the traffic. Roughly 60% will come from north of the site. About 6% will come from the neighborhoods to the west, 6% from Mill to I-10, from University to Broadway, and 30% from the ASU area. The size of the grocery store has been reduced to approximately 44,000 sq. ft.

Councilmember Carter asked about the relationship to the Chase Building.

Mr. Huellmantel responded that the Chase Building is 105 feet high and this building is roughly 75 feet.

Councilmember Goronkin asked about neighborhood preservation, historic preservation, and traffic concerns. Is there potential in this project to write a DDA that would establish some stream of funding that might then be used to mediate some of the neighborhood concerns?



Deputy City Attorney Cliff Mattice responded that, within the purview of the statute that addresses development agreements, it would be an option that could be discussed.

Mr. Huellmantel responded that they have spent a great deal of time working with the neighborhoods surrounding the site, and that is certainly something they would continue to do. The developers have gone to significant expense to redesign the building and they are trying to be sensitive in the way the entrances and exits are designed.

Councilmember Arredondo asked if the developer would have a problem with a stipulation that a grocery store must be included or it doesn't fly.

Mr. Huellmantel responded that they wouldn't have a problem with that stipulation.

Mayor Hallman asked Mr. Mattice whether it would be appropriate if a stipulation were added requiring that before approval of the Final PAD, the developer has to provide a grocer as a tenant in the project.

Mr. Mattice responded that, in some form, it would be appropriate.

Councilmember Carter asked about the vacant Chase piece of property to the northeast and whether they were successful in securing that. If they are still in negotiations, could that be a condition of this agreement?

Mr. Huellmantel responded that they have control of the property and they don't have a problem stipulating to the requirement for the Chase piece. They believe it makes the project substantially better.

Mayor Hallman asked if it is legally permissible to condition the approval this evening and the Final PAD on the acquisition of the adjoining parcel.

Mr. Mattice responded that he believed it could be included. He would caution on the re-zoning aspect of the case, however. If there is any threat to revert the zoning, there has to be a hearing before that would occur, but the PAD could be conditioned without regard to the zoning.

#### PUBLIC HEARING

**Josh Corren, Tempe**, ASU student. He supports the project. This project will add to Mill Avenue and will add jobs.

**Ben Ellis, Tempe**. He supports the project. It will add residential property to the City, be a benefit to the area, and will add retail opportunities to the downtown.

**Greg Hahn, Tempe**. He supports the project. There is a need for a grocery store in the area.

**Tammy LaBarber, Tempe**. She supports the project. She would appreciate being able to walk or bike to a closer grocery store.

**Joshua Simon, Tempe.** He supports the project. He lives at Mill and University and there is no close grocery store. It would also create jobs and revenue.

**Ken Capecilli, Tempe.** He supports the project for the grocery store.

**Neil Schwartz, Tempe.** He supports the project. He will be moving to the Mill and University area and it would be great to have a grocery store nearby. Amenities should be condensed so residents can walk or bike.

**Raquel Gutierrez, Tempe.** She stated that this project represents a value and spirit of gentrification, the replacement of one kind of people in Tempe with another kind of people in Tempe. That centers around socio-economics. It is nice to see young people wanting to stay in Tempe. There are many people who live north of University and west of the project that cannot afford an upscale grocery. She is concerned about residents getting displaced by projects such as this.

**Gabriel Ortega, Tempe.** He has been a resident of Tempe for 8 years and supports the project. The downtown area has changed for the good. I would appreciate a grocery store in the area. We need to continue to move in this direction.

**Mark Lymer, Tempe.** He is opposed to the project. The major issue is downtown density. This is a continuation of some bad planning choices over the years. It's not necessary to build \$500K condos and go to that height to get a return on the investment. Since these are residences, people will still get into their cars and drive somewhere every day. Small office space would be better.

**Therese Lucier, Tempe.** She is happy with the new building design. It is more to scale. We appreciate the developer incorporating the neighborhood requests, but we still have concerns with open space and diverse housing. A percentage of the housing should be dedicated as low-income or moderate-income housing. Diverse housing promises to keep our neighborhoods a community. We can't completely gentrify it and hope that we will have an interesting downtown.

**Arnold Ruiz, Tempe.** He supports the project. We need a grocery store and drugstore in the downtown area.

**Matt Gismondi, Tempe,** on behalf of Gentle Strength Co-op. This project is not displacing anyone or any homes. This will add to the diversity of the community, although at the high end. Building up is an alternative to paving the desert.

**Kirby Spitler, Tempe.** Density is a tool, but density for density sake can be a disaster. This building is ill-conceived. It is tall for the wrong reasons. To create housing with a lake view is not a good decision. The community is giving up a great deal by allowing a 207 ft. building where once a 35 ft. building was permitted. The design is improved, but is still wrong for the site.

**Rod Keeling, DTC, Tempe.** The project is within the DTC Assessment District and the DTC Board supports approval of this project. The project supports the vision that the downtown will become a great creative knowledge district and that will stand out as an urban oasis of lifestyle, culture and enterprise. It meets the design principles including for-sale residential properties, vertical mixed-use, neighborhood services, urban

qualities, and adequate parking. The developer has addressed the concerns regarding traffic, streetscape and pedestrian issues.

**Dave Preslik, Tempe.** He would love a grocery store in the downtown area, but urged caution about making the building too large.

**Jenny Lucier, Tempe.** She is concerned about the bulk of the building, but appreciates the developer's changes. There needs to be more discussion with the neighbors. Putting people in a tower, separate from the street, is not contributing to a sense of community. This kind of development puts "slippery slope" pressure on the neighborhood to the south. It is important to have a commitment about a line of demarcation or whatever tool it takes to provide that assurance that that is what will happen. She requested Council's support bringing forward a process requiring a public review of lot ties.

Councilmember Hutson stated that through this process tonight, he hoped staff could start looking at the concern with joining of lots. Another issue is down-zoning.

Mayor Hallman added that at the last IRS meeting, Council asked staff to return with a recommendation on how to undertake a public lot tie process, as well as a process to allow a re-zoning process where residents could elect to re-zone to eliminate some of the development pressure in a neighborhood. It was Council's direction to ask staff to bring that back as soon as possible.

Councilmember Copple added that he thought it is a two-way street and Ms. Lucier has a right to expect something of this Council to assure protection of her property and Council expects something of the residents in the Maple/Ash neighborhood and to the extent that anyone in the neighborhood might be willing to down-zone to help protect their property. He has not discussed it with Council, but he feels certain Council might be receptive to a discussion of waiving a vast majority of any fees that would be incurred so the property owners could do it at little or no cost. Second, no Council has taken any action to extend the Central City Development District south of University. He didn't know of any discussions by any developer, staff, or any member of this Council to make that happen.

Councilmember Arredondo added that he has no intention of moving across University.

**Douglas Dellinger, Tempe.** He commended the developer for the design change. It looks better, but the traffic issues were glazed over. Unfortunately, this developer is paying for a lot of past mistakes. Those developers were not pressured to make changes to the traffic issues. For the homeowners and renters in the Maple/Ash neighborhood, it is imperative that we see some type of traffic calming, and not only on University and Ash.

**Bob Grey, Tempe.** This new project is an improvement over what we previously saw. He appreciated the discussion about the different actions that could be taken to address the pressure on the neighborhood.

#### **APPLICANT'S RESPONSE**

**Charles Huellmantel** noted that it is good to hear that the neighbors appreciate the changes. A good point is that the alternative is the sprawl and we've seen what that can do to the desert. This will be an owner-occupied

structure, not an apartment complex. It does create a new place for people to live. It doesn't remove people who already live downtown. It provides a new place for new residents. It is also a mixed-use project, and that is important. Not only are we bringing new residents, but also businesses with a new grocery store and services. If people are concerned about traffic, we can reach answers with the traffic people involved. An office product would create substantially more traffic generation.

Councilmember Copple asked Mr. Mattice if Council approves the zoning and then separately approves the Preliminary PAD, are we bound by the number limits shown on the staff report regarding the total square footage, the overlay district, square footage of the building, the parking spaces, etc., or could we change those numbers when they come through for a Final PAD.

Mr. Mattice responded that the numbers could be changed.

Councilmember Copple asked if Council could add a stipulation that would require the developer to dedicate or deed to NewTown, for example, one of each type of their units so that permanent affordable housing could be a part of this project.

Mr. Mattice said that he hesitated to give that an open "yes" because at some point it goes too far.

Mayor Hallman stated that he believes strongly in our obligation to work toward affordable housing in Tempe and staff is currently working with a coalition of NewTown, Habitat and CPLC to create a new coalition to build affordable housing. This particular project is sufficiently expensive and he would hesitate to take a \$350-\$400 per sq. ft unit and claim that to be an affordable unit rather than ask the developer, at some point in the future, to contribute some amount of cash to an affordable housing project. As part of every project, Council needs to undertake that obligation in asking our development partners to make some contributions, but he would rather squeeze them for cash to let us build eight times as many houses somewhere else and actually end up with some single family homes that are more typical of what families of low income are seeking to find.

Councilmember Copple agreed. The concept he was considering wouldn't apply immediately. He was thinking five, ten or fifteen years down the road when there would be a few units in buildings like this where maybe mid-level income people ten years from now would still be able to afford a unit in this building that today might cost \$100K, but might be selling for \$500K ten years from now.

Councilmember Arredondo thanked all of the neighborhoods coming together to make a better product. He requested that the grocery store provide a drugstore/pharmacy.

Vice Mayor Mitchell commended the neighbors who have contributed to this project. The interaction between the neighbors and the developer has created a better project. The developer and residents should continue being engaged in the process. It shows the process does work. When he was growing up here, there was a lot of housing west of Mill Avenue and east of the railroad tracks. History has a tendency to repeat itself and now we see more residential units coming back to the area, but in a different model. I also want to go on the record and commit to no intense development south of University.

Councilmember Carter stated that she also agrees to no development south of University. This Council needs to do some visioning for not only the downtown but for the Lake so we don't have to take a project here and a project there and deal with this. She asked staff how the Code rewrite concerning home businesses applies to this project.

Mr. Venker wasn't we were thinking about a project of this density when those provisions were drafted. That may be something we need to take another look at.

Mayor Hallman stated that residential height and density is desired to provide the density we need to support the downtown economy so we can create the resources here and step away from continuing to subsidize the downtown. As part of the Lake development, we are looking for the same kind of intensification of residential development. It will bring residents downtown to support the businesses here. That vision was created and crafted by this Council with a very clear purpose - it's not density for density's sake. In looking at the available property left in the downtown, there are very few parcels. This Council has created a vision that understands the purpose of the density and the limited spaces where we can put that. That's a good thing. The density is being created because it allows us to get what the community wants—that first three or four floors of pedestrian-oriented services and goods. I'm not yet satisfied with the pedestrian features of this building, however. It shows a very nice effort at pedestrian-oriented design on the Ash Avenue side, but it is lacking on the University side. We have a disastrous building on the University side at the Chase Building. A huge dead spot from Mill Avenue to Ash because those buildings turn their backs on University. We don't want to repeat that further down the block. Our only hope now is to create a pedestrian environment that brings people from Mill Avenue around the corner to University and down to bring together the projects to the west. Staff should consider appropriate use of the right-of-way, an active use of the right-of-way, where we have opportunities for balconies that are over-the-top of the right-of-way and activate that space and provide additional opportunity for activation of that space. The district ends at University, and on the south side we need appropriate redevelopment of some of the sites that are very sensitive to the neighborhoods.

Councilmember Copple asked about the timetable.

Mr. Huellmantel responded that they would like to meet with staff tomorrow to start talking about what staff will need specifically in terms of the Final PAD, talk with the Traffic people about the entrances and exits, and to proceed relatively quickly with the Final PAD. We expect to start working on this tomorrow and move forward.

Mr. Mattice asked about the specifics of the Development Agreement and whether there was any Council direction for staff on the parameters of the fund to be created.

Mayor Hallman responded that when we talk about a DDA at the Council level, it's one that would contemplate the use of a Government Property Lease Excise Tax (GPLET) that would allow the City to collect excise tax in lieu of property tax. That would then create a fund. The intent is to ask staff, when negotiating with the developer, to bring that amount actually collected from the project up to the ordinary property tax rate. The GPLET rate is actually lower, and ask the developer to make a contribution to bring the total tax paid up to 100% of the amount that would otherwise be collected under property tax. Our typical approach is that we have to have tax money to run the City elements and that the City's contribution to the fund would be limited to 50%

of the GPLET tax collected and that we also, from the balance, hold the school districts harmless based on the amount of tax we collect. That's been a standard procedure in the last 4 or 5 years. That would create a fund used to address neighborhood preservation and other issues that were brought out.

**Motion by Councilmember Goronkin to approve Item #34. Second by Councilmember Carter.**  
**Motion passed on a roll call vote, 7-0.**

**DOCUMENT NAME:** [20050602dsrl02a.pdf](#) **PLANNED DEVELOPMENT (0406)**

\*35. ***THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION.***

Held the **second public hearing** and **approved with conditions** a Preliminary Planned Area Development Overlay for COSMO, 234 West University Drive.

**COMMENTS:** (Matt Gismondi, Gentle Strength Cooperative, Inc., property owner) (RRC05004) for a sixteen story building with approximately 488,000 s.f. of building on 1.77 acres, including the following:

**#SPD-2005.32** for a Preliminary Planned Area Development Overlay District consisting of 170,000 s.f. of residential condominiums, 67,000 s.f. of grocery store/commercial and 450+ parking spaces within 488,000 s.f. of building on 1.77 acres.

The following conditions were approved:

1. a. The Public Works Department shall approve all roadway, alley, and utility easement dedications, driveways, storm water retention, and street drainage plans, water and sewer construction drawings, refuse pickup, and off-site improvements.
- b. Off-site improvements to bring roadways to current standards include:
  - (1) Water lines and fire hydrants
  - (2) Sewer lines
  - (3) Storm drains
  - (4) Roadway improvements including streetlights, curb, gutter, bikepath, sidewalk, bus shelter, and related amenities.
- c. Fees to be paid with the development of this project include:
  - (1) Water and sewer development fees,
  - (2) Water and/or sewer participation charges,
  - (3) Inspection and testing fees.
- d. All applicable off-site plans shall be approved prior to recordation of Final Subdivision Plat.
- e. All street dedications shall be made within six (6) months of Council approval.
- f. Public improvements must be installed prior to the issuance of any occupancy permits. Any phasing shall be approved by the Public Works Department.
- g. All new and existing, as well as on-site and off-site, utility lines (other than transmission lines) shall be placed underground prior to the issuance of an occupancy permit for this (re)development in accordance with the Code of the City of Tempe – Section 25.120.
2. The owner(s) shall provide a continuing care condition, covenant and restriction for all of the project's landscaping, required by Ordinance or located in any common area on site. The CC&Rs shall be in a form satisfactory to the Development Services Director and City Attorney.
3. A building permit shall be obtained and substantial construction commenced **on or before June 2, 2007**, or the zoning shall revert to that in place at the time of application, subject to a public hearing.
4. The Planned Area Development for Cosmo shall be put into proper engineered format with appropriate signature blanks and kept on file with the City of Tempe's Development Services

Department prior to issuance of building permits.

5. A Subdivision Plat and Horizontal Regime (Condominium Map) is required for this site and shall be recorded prior to issuance of permits.
6. The Final Subdivision Plat and Horizontal Regime (Condominium Map) shall be put into proper engineering format with appropriate signature blanks and recorded with the Maricopa County Recorder's Office through the City of Tempe's Development Services Department **on or before June 2, 2006**. Failure to record the plan within one year of Council approval shall make the plan null and void.
7. All final details of the project (i.e. building elevations, floor plans, landscape plan, etc.) shall be reviewed and approved and processed simultaneously with the Final Planned Area Development Overlay to the appropriate decision-making bodies prior to processing permits.
8. The applicant shall provide a sun angle study pursuant to the General Plan 2030 for tall buildings, when a Final Planned Area Development Overlay is processed.
9. The applicant shall provide a project model when a Final Planned Area Development Overlay is processed.
10. The applicant shall provide a complete traffic impact study when a Final Planned Area Development Overlay is processed.
11. The Preliminary Planned Area Development Overlay shall have a maximum building height of two hundred seven (207) feet, based on applicant's presentation.
12. Applicant shall include a full service grocery store in the Final PAD submittal. Details of the grocery store shall include a statement from the grocer indicating the services provided on-site by the store and the duration of the store's lease.
13. Prior to the passage of the Final PAD, Applicant and the City will negotiate a mutually acceptable Development and Disposition Agreement, the funds from which will be used to address traffic-calming, historic preservation, neighborhood preservation, and affordable housing issues in the neighborhoods impacted by the project.
14. The project is conditioned on adding the parcel immediately north of the project, informally called the "Chase High Profile Parking Lot."

***\*\*\*AS NOTED ABOVE, THE PUBLIC HEARINGS FOR ITEMS #34 AND #35 WERE COMBINED, THEN EACH ITEM WAS VOTED ON SEPARATELY.***

**Mayor Hallman** read the following additional stipulations into the record:

1. Applicant shall include a full service grocery store in the Final PAD submittal. Details of the grocery store shall include a statement from the grocer indicating the services provided on-site by the store and the duration of the store's lease.
2. Prior to the passage of the Final PAD, Applicant and the City will negotiate a mutually acceptable Development and Disposition Agreement, the funds from which will be used to address traffic-calming, historic preservation, neighborhood preservation, and affordable housing issues in the neighborhoods impacted by the project.
3. The project is conditioned on adding the parcel immediately north of the project, informally called the "Chase High Profile Parking Lot."

**Motion by Councilmember Goronkin for approval of Item #35 with the three stipulations as read into the record by the Mayor. Second by Councilmember Carter. Motion passed on a roll call vote, 7-0.**

DOCUMENT NAME: [20050602dsrl02b.pdf](#) PLANNED DEVELOPMENT (0406)

\*36. **THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION.**

Held the **second public hearing** and **approved** ORDINANCE NO. 2005.20 authorizing the historic designation of the KIRKLAND-McKINNEY DITCH at 1403 East 8<sup>th</sup> Street and 902 South Una Avenue.

**COMMENTS:** (Tempe Historic Preservation Commission, applicant) **Ordinance No. 2005.20 #HPO-2005.31** for the historic designation of the Kirkland-McKinney Ditch.

PUBLIC HEARING

**Darlene Justus, Tempe, Chair of the Tempe Historic Preservation Foundation.** The Foundation strongly supports the Tempe historic designation for the Kirkland-McKinney Ditch and the Borden Homes historic district. The Kirkland-McKinney Ditch is significant for its association with the earliest agricultural efforts undertaken in Tempe and is the oldest remaining original manmade waterway still in use in the Salt River Valley. William H. Kirkland and James P. McKinney constructed the waterway to their lands in 1870-1871. The water supply for the Hayden Flour Mill was provided with an extension of this ditch. In 1874, the Hayden Flour Mill became one of the widely known institutions in the Arizona Territory. It is important to preserve significant elements of our history. Historic designation does not prevent development, it merely causes us to pause and reflect on the historic significance of a property and to consider recommendations before proceeding.

**Matthew Bilsbarrow, Tempe.** He is a registered professional archeologist and has been studying canals, both prehistoric and historic, in the Salt River Valley for a long time,. He is in favor of this historic designation. It helps to demonstrate the significance of irrigated agriculture to this community.

**John Kobrowski, Phoenix,** owner of the land upon which the ditch sits. He is happy to see this historic designation finally happening.

**Motion by Councilmember Carter for approval of Item #36. Second by Vice Mayor Mitchell. Motion passed on a roll-call vote, 7-0.**

DOCUMENT NAME: [20050602dsrl04.pdf](#) PLANNED DEVELOPMENT (0406)

\*37. **THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION.**

Held the **second public hearing** and **approved with conditions** an ordinance authorizing the historic district designation of the BORDEN HOMES Subdivision.

**COMMENTS:** (Tempe Historic Preservation Commission, applicant) **Ordinance No. 2005.19 #HPO-2005.30** for designation of the Borden Homes Subdivision as a historic district including code text amendments, consisting of lots 1 through 7, 9 through 62, and 71 through 79, located between Orange Street on the north and Apache Boulevard on the south, and from McClintock Drive on the east to Una Avenue on the west.

The following conditions were approved:



1. Lot number 63 of the Borden Homes Subdivision shall be included within the designation of the Borden Homes Historic District, for reasons that this property is considered to have character defining features significant to this area.
2. Lot number 71 of the Borden Homes Subdivision shall be removed from consideration within the designation of the Borden Homes Historic District, for reasons that this property does not contribute to the character defining features from the period of significance.

#### PUBLIC HEARING

**Christopher McKee, Tempe.** He is involved in the preservation of this neighborhood and the pride of ownership it would bring. There are fourteen homes, eight are owner/occupied and six are rentals. He supports the historic designation.

**Motion by Councilmember Goronkin for approval of Item #37. Second by Vice Mayor Mitchell. Motion passed on a roll-call vote, 7-0.**

**DOCUMENT NAME:** [20050602dsrl03.pdf](#) **PLANNED DEVELOPMENT (0406)**

- \*38. **THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION.**  
Held the **second public hearing** and **tabled** an ordinance authorizing the historic designation of the HAYDEN FLOUR MILL & SILOS, 119 South Mill Avenue.  
**COMMENTS:** (RRC05018) (City of Tempe, owner) **Ordinance No. 2005.21 #HPO-2005.39** for the historic designation of the Hayden Four Mill and Silos, consisting of approximately 10 acres.

Mayor Hallman stated that Council had come to a consensus that the buildings that make up the mill and silos should be put forward as historically significant and preservation attached to them by the City of Tempe. That's how this process began. The silos and flour mill were first able to qualify for historic designation in 1983, and this Council believes that those are historically important structures and our community is committed to preserving these kinds of historic structures. However, there is currently a lawsuit pending over the resolution of issues between the City of Tempe and the developer that previously had an interest in the site. There was some hope that by now we would have some resolution on that lawsuit, but we don't, and as a result, there is some concern that, by approving this historic designation, the rights of the parties to that lawsuit could be impacted.

PUBLIC HEARING - No one came forward to speak.

**Motion by Councilmember Hutson to table Item #38 until the resolution of the Flour Mill litigation, and that this item be brought up at the first regularly-scheduled meeting after that date. Second by Councilmember Goronkin. Motion passed on a roll-call vote, 7-0.**

**DOCUMENT NAME:** [20050602dsrl01.pdf](#) **PLANNED DEVELOPMENT (0406)**

E. Resolutions

39. Approved RESOLUTION NO. 2005.29 authorizing the issuance and sale of \$52,425,000 of City of Tempe General Obligation Bonds, Series 2005.  
**COMMENTS:** Providing for the annual levy of a tax for the payment of the bonds; providing certain terms, covenants and conditions regarding the issuance of the bonds; accepting a proposal for the purchase of the bonds; appointing a registrar, transfer agent and paying agent for the bonds.  
**DOCUMENT NAME:** [20050602fsjh01.pdf](#) BOND SERVICE ADMINISTRATION (0203-01)
40. Approved RESOLUTION NO. 2005.24 accepting a \$6,900 grant from the Arizona Automobile Theft Authority for bait vehicle maintenance and communication costs.  
**DOCUMENT NAME:** [20050602pdsr01.pdf](#) POLICE DEPARTMENT ADMINISTRATION (0606-02) .
41. Approved RESOLUTION NO. 2005.25 accepting a \$15,937 grant from the Arizona Automobile Theft Authority for vehicle theft prevention events, activities, and equipment.  
**DOCUMENT NAME:** [20050602pdsr02.pdf](#) POLICE DEPARTMENT ADMINISTRATION (0606-02)
- \*42. ***THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION.***  
Held a public hearing and **approved** RESOLUTION NO. 2005.21 approving the annual assessments for the Downtown Tempe Enhanced Services Improvement District.

Councilmember Copple asked to have this item removed for separate consideration for explanation of the fiscal note on the Staff Summary Report regarding the change to the total assessment.

Mayor Hallman clarified that the Annual Assessment for City-owned property within the District for FY2005-06 should have stated it was the entirety of the District property and that the number should have read \$496,230.59.

**Motion by Councilmember Copple for approval of Item #42. Second by Vice Mayor Mitchell. Motion passed on a roll-call vote, 7-0.**

**DOCUMENT NAME:** [20050602dsnc01.pdf](#) CENTRAL BUSINESS DISTRICT (0403-05)

43. Approved RESOLUTION NO. 2005.27 authorizing the Mayor to sign an Intergovernmental Agreement between the Arizona Board of Regents (Arizona State University) and the City of Tempe for reconstruction of the McAllister Avenue Relief Sewer, construction of the Memorial Union Diversion Sewer, and construction of the Apache Boulevard Waterline.  
**DOCUMENT NAME:** [20050602cacc06.pdf](#) WASTEWATER MANAGEMENT ADMIN (0812-01)

## 6. PUBLIC APPEARANCES

### *SCHEDULED PUBLIC APPEARANCES:*

- Dennis Skolnick, Tempe, re: Mill Avenue, Greenwich Village of the Southwest – DID NOT APPEAR
- Ralph Ellis, Tempe, re: Wages for Police – DID NOT APPEAR

### *UNSCHEDULED PUBLIC APPEARANCES:*

- **Bob Stafford, Tempe**, re: Cosmo and Transportation Overlay District. He loves Tempe, but Tempe is not receiving enough money for the amenities being provided. Tempe will need to find a way to provide more retail and businesses to provide those dollars. He is tired of opening the paper every day and seeing what's happening in Phoenix, but not Tempe.

## 7. CURRENT EVENTS/COUNCIL ANNOUNCEMENTS – None.

*Meeting adjourned at 10:30 p.m.*

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Hugh Hallman, Mayor

ATTEST:

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Kathy L. Matz, City Clerk

I, Kathy L. Matz, the duly-appointed City Clerk of the City of Tempe, Maricopa County, Arizona, do hereby certify the above to be the minutes of the Regular Council meeting of June 2, 2005, by the Tempe City Council, Tempe, Arizona.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2005

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Kathy L. Matz  
City Clerk